

## Federal Deposit Insurance Corporation

## § 308.505

or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

### § 308.503 Investigations.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted:

(1) The subpoena will identify the person to whom it is addressed and the authority under which the subpoena is issued and will identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena will be required to provide the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available, and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the PFCRA may be warranted, the investigating official will submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section will preclude or limit an investigating official's discretion to refer allegations directly to the United States Department of Justice (DOJ) for suit under the False Claims Act (31 U.S.C. 3729 *et seq.*) or other civil relief, or to preclude or limit the investigating official's discretion to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

### § 308.504 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 308.503(b) of this subpart, the reviewing official determines that there is adequate evi-

dence to believe that a person is liable under § 308.502 of this subpart, the reviewing official will transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 308.506 of this subpart.

(b) Such notice will include:

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 308.502 of this subpart;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known, or upon an absence of any information indicating that the person may be unable to pay such amount.

### § 308.505 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 308.506 of this subpart only if:

(1) The DOJ approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 308.502(a) of this subpart with respect to a claim (or a group of related claims submitted at the same time as defined in paragraph (b) of this section) the reviewing official determines that the amount of money or the value of property or services demanded or requested does not exceed \$150,000.

(b) For the purposes of this section, a group of related claims submitted at the same time will include only those claims arising from the same transaction (e.g., grant, loan, application, or